

HONORABLE DAVID G. ESTUDILLO

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GABRIELLA SULLIVAN, et al.,

Plaintiffs,

v.

BOB FERGUSON, et al.,

Defendants.

No. 3:22-cv-05403-DGE

INTERVENOR-DEFENDANT
ALLIANCE FOR GUN
RESPONSIBILITY'S ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT

Defendant-Intervenor Alliance for Gun Responsibility (the "Alliance") answers the First Amended Complaint for Declaratory and Injunctive Relief (the "Amended Complaint") of Plaintiffs Gabriella Sullivan, et al. ("Plaintiffs") as follows:

The unnumbered paragraph at the outset of the Amended Complaint contains characterizations of this action and legal conclusions or argument to which no response is required. To the extent a response is required, the Alliance denies the same.

INTRODUCTION

1. The Alliance admits that one way in which Engrossed Substitute Senate Bill 5078 ("ESSB 5078") regulates large-capacity magazines ("LCMs") is by prohibiting as a gross

1 misdemeanor any person in Washington from manufacturing, importing, distributing, selling, or
2 offering to sell an LCM, with exceptions for (1) the armed forces of Washington State or the
3 United States; (2) law enforcement agencies in Washington; or (3) out-of-state sale or transfer by
4 a licensed firearms dealer. Except as expressly admitted above, Paragraph 1 consists of legal
5 conclusions or argument to which no response is required. To the extent a further response is
6 required, the Alliance denies the same.
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8 2. Paragraph 2 consists of legal conclusions or argument to which no response is
9 required. To the extent a response is required, the Alliance denies the same.

10 3. The first sentence in Paragraph 3 contains legal conclusions or argument to which
11 no response is required. To the extent a response is required, the Alliance denies the same. The
12 Alliance denies all remaining allegations in Paragraph 3.
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14 4. Paragraph 4 consists of legal conclusions or argument to which no response is
15 required. To the extent a response is required, the Alliance denies the same.

16 5. Paragraph 5 consists of legal conclusions or argument to which no response is
17 required. To the extent a response is required, the Alliance denies the same.

18 6. Paragraph 6 consists of legal conclusions or argument to which no response is
19 required. To the extent a response is required, the Alliance denies the same.
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21 7. Paragraph 7 consists of characterizations of this action or legal conclusions or
22 argument to which no response is required. To the extent a response is required, the Alliance
23 denies the same.

24 JURISDICTION AND VENUE

25 8. Paragraph 8 consists of legal conclusions or argument to which no response is
26 required.
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1 9. Paragraph 9 consists of characterizations of this action or legal conclusions or
2 argument to which no response is required. To the extent a response is required, the Alliance
3 denies the same.

4 10. Admit.

5
6 **PARTIES**

7 11. The Alliance lacks sufficient knowledge or information to form a belief about the
8 truth of the allegations in Paragraph 11, which shall have the effect of a denial.

9 12. The Alliance lacks sufficient knowledge or information to form a belief about the
10 truth of the allegations in Paragraph 12, which shall have the effect of a denial.

11 13. The Alliance lacks sufficient knowledge or information to form a belief about the
12 truth of the allegations in Paragraph 13, which shall have the effect of a denial.

13 14. The fourth sentence of Paragraph 14 consists of characterizations of this action to
14 which no response is required. To the extent a response is required, the Alliance denies the same.
15 The Alliance lacks sufficient knowledge or information to form a belief about the truth of the
16 remaining allegations in Paragraph 14, which shall have the effect of a denial.

17 15. The fifth sentence of Paragraph 15 consists of characterizations of this action to
18 which no response is required. To the extent a response is required, the Alliance denies the same.
19 The Alliance lacks sufficient knowledge or information to form a belief about the truth of the
20 remaining allegations in Paragraph 15, which shall have the effect of a denial.

21 16. The first sentence of Paragraph 16 consists of characterizations of this action to
22 which no response is required. To the extent a response is required, the Alliance denies the same.
23 The second sentence of Paragraph 16 consists of legal conclusions or argument to which no
24 response is required. To the extent a response is required, the Alliance denies the same.
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1 17. The first sentence of Paragraph 17 consists of characterizations of this action to
2 which no response is required. To the extent a response is required, the Alliance denies the same.
3 The second sentence of Paragraph 17 consists of legal conclusions or argument to which no
4 response is required. To the extent a response is required, the Alliance denies the same.

5 18. The first sentence of Paragraph 18 consists of characterizations of this action to
6 which no response is required. To the extent a response is required, the Alliance denies the same.
7 The second sentence of Paragraph 18 consists of legal conclusions or argument to which no
8 response is required. To the extent a response is required, the Alliance denies the same.

9 19. The first sentence of Paragraph 19 consists of characterizations of this action to
10 which no response is required. To the extent a response is required, the Alliance denies the same.
11 The second sentence of Paragraph 19 consists of legal conclusions or argument to which no
12 response is required. To the extent a response is required, the Alliance denies the same.

13 20. The first sentence of Paragraph 20 consists of characterizations of this action to
14 which no response is required. To the extent a response is required, the Alliance denies the same.
15 The second sentence of Paragraph 20 consists of legal conclusions or argument to which no
16 response is required. To the extent a response is required, the Alliance denies the same.

17 21. The first sentence of Paragraph 21 consists of characterizations of this action to
18 which no response is required. To the extent a response is required, the Alliance denies the same.
19 The second sentence of Paragraph 21 consists of legal conclusions or argument to which no
20 response is required. To the extent a response is required, the Alliance denies the same.

21 22. The first sentence of Paragraph 22 consists of characterizations of this action to
22 which no response is required. To the extent a response is required, the Alliance denies the same.
23 The second sentence of Paragraph 22 consists of legal conclusions or argument to which no
24 response is required. To the extent a response is required, the Alliance denies the same.

1 The second sentence of Paragraph 22 consists of legal conclusions or argument to which no
2 response is required. To the extent a response is required, the Alliance denies the same.

3 23. The first sentence of Paragraph 23 consists of characterizations of this action to
4 which no response is required. To the extent a response is required, the Alliance denies the same.
5 The second sentence of Paragraph 23 consists of legal conclusions or argument to which no
6 response is required. To the extent a response is required, the Alliance denies the same.
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8 **FACTUAL ASSERTIONS**

9 24. The Alliance admits that Governor Jay Inslee signed ESSB 5078 into law on
10 March 23, 2022. The remaining allegations in Paragraph 24 relate to cited bill and statutory
11 provisions, which speak for themselves. The Alliance denies all allegations and characterizations
12 in Paragraph 24 inconsistent with the cited provisions.
13

14 25. Paragraph 25 contains allegations related to statutory provisions, which speak for
15 themselves. The Alliance denies all allegations and characterizations in Paragraph 25
16 inconsistent with the cited provisions. The remainder of Paragraph 25 consists of legal
17 conclusions or argument to which no response is required. To the extent a response is required,
18 the Alliance denies the same.

19 26. Paragraph 26 consists of legal conclusions or argument to which no response is
20 required. To the extent a response is required, the Alliance denies the same.
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22 27. Paragraph 27 consists of legal conclusions or argument to which no response is
23 required. To the extent a response is required, the Alliance denies the same.

24 28. The bill and statutory provisions cited in Paragraph 28 speak for themselves. The
25 Alliance denies all allegations and characterizations in Paragraph 28 inconsistent with the cited
26 provisions.
27

1 29. Admitted.

2 30. Paragraph 30 contains allegations related to statutory provisions, which speak for
3 themselves. The remaining allegations in Paragraph 30 are subjective characterizations and do
4 not require a response by way of factual pleading, but to the extent a response is required, the
5 Alliance denies the same. The Alliance specifically denies that “large capacity magazine” is a
6 “misnomer” and that LCMs are “more accurately described as ‘standard capacity magazines.’”
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8 31. The Alliance lacks sufficient knowledge or information to form a belief about the
9 truth of the allegations in Paragraph 31, which shall have the effect of a denial.

10 32. The publication cited in Paragraph 32 speaks for itself. The Alliance denies all
11 allegations, inferences, and characterizations in Paragraph 32 inconsistent with the cited
12 publication. To the extent Paragraph 32 alleges facts as to the veracity of the publication’s
13 findings or conclusions, or as to any inferences drawn therefrom, the Alliance lacks sufficient
14 knowledge or information to form a belief as to their truth, which shall have the effect of a
15 denial.
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17 33. The Alliance admits that LCMs exist in the United States and that some firearms
18 are able to accept LCMs. The remaining allegations in Paragraph 33 are subjective
19 characterizations and do not require a response by way of factual pleading, but to the extent a
20 response is required, the Alliance denies the same.
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22 34. The first sentence of Paragraph 34 consists of subjective characterizations and
23 does not require a response by way of factual pleading, but to the extent a response is required,
24 the Alliance denies the same. The second sentence of Paragraph 34 consists of legal conclusions
25 or argument to which no response is required, but to the extent a response is required, the
26 Alliance denies the same.
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1 35. The first sentence of Paragraph 35 is denied. The publication cited in the second
2 sentence of Paragraph 35 speaks for itself. The Alliance denies all allegations, inferences, and
3 characterizations in Paragraph 35 inconsistent with the cited publication.

4 36. The Alliance denies the first sentence in Paragraph 36. The publication cited in
5 the second sentence of Paragraph 36 speaks for itself. The Alliance denies all allegations,
6 inferences, and characterizations in Paragraph 36 inconsistent with the cited publication. The
7 third and fourth sentences of Paragraph 36 consist of subjective characterizations and
8 hypothetical opinions that do not require a response by way of factual pleading, but to the extent
9 a response is required, the Alliance denies the same. The Alliance specifically denies Paragraph
10 36's assertion or suggestion that LCMs are not commonly used in violent crimes in the United
11 States.
12

13 37. The publications cited in Paragraph 37 speak for themselves. The Alliance denies
14 all allegations, inferences, and characterizations in Paragraph 37 inconsistent with the cited
15 publications. Paragraph 37 also consists of subjective characterizations that do not require a
16 response by way of factual pleading, but to the extent a response is required, the Alliance denies
17 the same. The Alliance specifically denies Paragraph 37's assertion or suggestion that LCMs are
18 rarely used in mass shootings. The Alliance specifically denies Paragraph 37's assertion or
19 suggestion that each year more Americans are killed or injured in lightning strikes than in mass
20 shootings. The Alliance specifically denies Paragraph 37's assertion or suggestion that state
21 restrictions on LCMs do not "have any impact at all on mass shootings."
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23 38. The first sentence of Paragraph 38 is denied. The Alliance specifically denies
24 Paragraph 38's assertion that LCM regulations are "recent phenomena." The Alliance
25 specifically denies Paragraph 38's assertion or suggestion that laws restricting firing capacity of
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1 firearms did not “exist[] anywhere in the United States before the 1990s.” The remainder of
 2 Paragraph 38 consists of legal conclusions or argument to which no response is required, but to
 3 the extent a response is required, the Alliance denies the same.

4 39. The publication cited in Paragraph 39 speaks for itself. The Alliance denies all
 5 allegations, inferences, and characterizations in Paragraph 39 inconsistent with the cited
 6 publication. The Alliance specifically denies Paragraph 39’s assertion or suggestion that LCMs
 7 have been common in America (or anywhere else in the world) for hundreds of years. The
 8 Alliance admits that, to the extent weapons capable of firing more than ten rounds existed before
 9 the 20th century, they were experimental, unusual, impractical, unreliable, prohibitively
 10 expensive, or otherwise not analogous to modern firearms equipped with LCMs—and thus
 11 unlikely to necessitate government regulation. The Alliance admits that the only known example
 12 in existence of the Wheellock rifle was made in Germany around 1580 and was capable of firing
 13 16 shots. The Alliance lacks sufficient knowledge or information to form a belief about the truth
 14 of the remaining allegations in Paragraph 39, which shall have the effect of a denial.

15 40. The publications cited in Paragraph 40 speak for themselves. The Alliance denies
 16 all allegations, inferences, and characterizations in Paragraph 40 inconsistent with the cited
 17 publications. The Alliance admits that, to the extent weapons capable of firing more than ten
 18 rounds existed before the 20th century, they were experimental, unusual, impractical, unreliable,
 19 prohibitively expensive, or otherwise not analogous to modern firearms equipped with LCMs—
 20 and thus unlikely to necessitate government regulation. For example, the Alliance admits that in
 21 1718 James Puckle patented a nine-round, giant, tripod-mounted “Puckle gun,” which was never
 22 widely produced, difficult and expensive to manufacture, unreliable, and ridiculed by
 23 contemporaries for its impracticality; users would have to crank or rotate the cylinder by hand
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1 between shots. The Alliance lacks sufficient knowledge or information to form a belief about the
2 truth of the remaining allegations in Paragraph 40, which shall have the effect of a denial.

3 41. The publications cited in Paragraph 41 speak for themselves. The Alliance denies
4 all allegations, inferences, and characterizations in Paragraph 41 inconsistent with the cited
5 publication. The Alliance specifically denies Paragraph 41's assertion or suggestion that LCMs
6 were common in America in the founding generation. The Alliance admits that, to the extent
7 weapons capable of firing more than ten rounds existed before the 20th century, they were
8 experimental, unusual, impractical, unreliable, prohibitively expensive, or otherwise not
9 analogous to modern firearms equipped with LCMs—and thus unlikely to necessitate
10 government regulation. The Alliance admits that Lewis and Clark's Girandoni air rifle had a 22-
11 round capacity—but it required more than a thousand strokes of a hand pump to charge, only
12 1,500 of them were ever manufactured, and even fewer than that ever made it to the United
13 States. The Alliance admits that a correspondence between Joseph Belton and the Continental
14 Congress exists, but denies that there are any historical records showing that his rifle was ever
15 actually tested or supplied. The Alliance lacks sufficient knowledge or information to form a
16 belief about the truth of the remaining allegations in Paragraph 41, which shall have the effect of
17 a denial.
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20 42. The Alliance denies the first sentence of Paragraph 42. The publication cited in
21 Paragraph 42 speaks for itself. The Alliance denies all allegations, inferences, and
22 characterizations in Paragraph 42 inconsistent with the cited publication. The Alliance
23 specifically denies Paragraph 42's assertion or suggestion that LCMs were common in the
24 United States in the 19th century. The Alliance admits that, to the extent weapons capable of
25 firing more than ten rounds existed before the 20th century, they were experimental, unusual,
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1 impractical, unreliable, prohibitively expensive, or otherwise not analogous to modern firearms
2 equipped with LCMs—and thus unlikely to necessitate government regulation. The Alliance
3 admits that the rare Ellis-Jennings flintlock rifle of 1821 could fire four blackpowder shots, but
4 the user had to slide the action rearward to fire each subsequent shot, and very few were
5 produced. The Alliance specifically denies that 19th-century firearms capable of firing multiple
6 rounds without reloading were nearly as dangerous as modern firearms equipped with LCMs.
7 The Alliance lacks sufficient knowledge or information to form a belief about the truth of the
8 remaining allegations in Paragraph 42, which shall have the effect of a denial.
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10 43. The Alliance denies the first and second sentences of Paragraph 43. The
11 publications cited in Paragraph 43 speak for themselves. The Alliance denies all allegations,
12 inferences, and characterizations in Paragraph 43 inconsistent with the cited publications. The
13 Alliance specifically denies Paragraph 43's assertion or suggestion that LCMs were
14 "commonplace" in the United States "[a]round the time of the Civil War" and that LCMs "were
15 commonly possessed already in the 1860s." The Alliance admits that, to the extent weapons
16 capable of firing more than ten rounds existed before the 20th century, they were experimental,
17 unusual, impractical, unreliable, prohibitively expensive, or otherwise not analogous to modern
18 firearms equipped with LCMs—and thus unlikely to necessitate government regulation. The
19 Alliance specifically denies that 19th-century firearms capable of firing more than ten rounds
20 without reloading were nearly as dangerous as modern firearms equipped with LCMs. For
21 example, unlike modern semi-automatic firearms with detachable LCMs, the Winchester 1866
22 and 1873 rifles had tubular magazines that were permanently affixed to the barrel of the gun and
23 required users to operate a lever after firing each shot to load a new round into the chambers—a
24 time-consuming process. The Alliance lacks sufficient knowledge or information to form a belief
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1 about the truth of the remaining allegations in Paragraph 43, which shall have the effect of a
2 denial.

3 44. The first and second sentences of Paragraph 44 consist of legal conclusions or
4 argument to which no response is required. To the extent a response is required, the Alliance
5 denies the same. The two publications cited in Paragraph 44 speak for themselves. The Alliance
6 denies all allegations, inferences, and characterizations in Paragraph 44 inconsistent with the
7 cited publications. Paragraph 44 also consists of subjective characterizations and hypothetical
8 opinions that do not require a response by way of factual pleading, but to the extent a response is
9 required, the Alliance denies the same. The Alliance specifically denies Paragraph 44's assertion
10 or suggestion that regulations of LCMs do not reduce gun violence or increase public safety.
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12 45. The Alliance denies the first sentence of Paragraph 45. The publication cited in
13 Paragraph 45 speaks for itself. The Alliance denies all allegations, inferences, and
14 characterizations in Paragraph 45 inconsistent with the cited publication. The remaining
15 allegations in Paragraph 45 are subjective characterizations and hypothetical opinions and do not
16 require a response by way of factual pleading, but to the extent a response is required, the
17 Alliance denies the same.
18

19 46. The court decision cited in Paragraph 46 speaks for itself. The Alliance denies all
20 allegations, inferences, and characterizations in Paragraph 46 inconsistent with the cited
21 decision. The Alliance lacks sufficient knowledge or information to form a belief as to the truth
22 of the remaining allegations in Paragraph 46, which shall have the effect of a denial.
23

24 47. The website cited in Paragraph 47 speaks for itself. The Alliance denies all
25 allegations, inferences, and characterizations in Paragraph 47 inconsistent with the cited website.
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1 The Alliance lacks sufficient knowledge or information to form a belief about the truth of the
2 remaining allegations in Paragraph 47, which shall have the effect of a denial.

3 48. The Alliance denies the first sentence of Paragraph 48. The publications cited in
4 Paragraph 48 speak for themselves, and the Alliance denies all allegations, inferences, and
5 characterizations in Paragraph 48 inconsistent with the cited publications. The Alliance lacks
6 sufficient knowledge or information to form a belief as to truth of the allegations in the second
7 and fourth textual sentences in Paragraph 48, which shall have the effect of a denial. The
8 Alliance admits that ESSB 5078 has exceptions for, *inter alia*, law enforcement agencies in
9 Washington. The remaining allegations in Paragraph 48 consist of legal conclusions or argument
10 or subjective characterizations to which no response is required, but to the extent a response is
11 required, the Alliance denies the same.
12

13 49. Paragraph 49 consists of subjective characterizations and hypothetical opinion to
14 which no response is required, but to the extent a response is required, the Alliance denies the
15 same. The Alliance specifically denies Paragraph 49's assertion that "violent criminals will not
16 be meaningfully constrained by Washington's magazine ban" and its suggestion that ESSB 5078
17 will not reduce gun violence or improve public safety.
18

19 50. The website cited in Paragraph 50 speaks for itself. The Alliance denies all
20 allegations, inferences, and characterizations in Paragraph 50 inconsistent with the cited website.
21 The Alliance lacks sufficient knowledge or information to form a belief about the truth of the
22 remaining allegations in Paragraph 50, which shall have the effect of a denial.
23

24 51. Paragraph 51 consists of legal conclusions and argument to which no response is
25 required. To the extent a response is required, the Alliance denies the same.
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STATEMENT OF FACTS RELATING TO GABRIELLA SULLIVAN

52. The Alliance incorporates its responses as set forth above.

53. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 53, which shall have the effect of a denial.

54. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 54, which shall have the effect of a denial.

55. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 55, which shall have the effect of a denial.

56. The Alliance admits that both the Sig Sauer P365 handgun and Smith & Wesson M&P Sport .22 rifle are compatible with both LCMs and smaller-capacity magazines. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations in Paragraph 56, which shall have the effect of a denial.

57. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 57, which shall have the effect of a denial.

58. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 58, which shall have the effect of a denial.

59. The Alliance lacks sufficient knowledge or information to form a belief about the truth of the allegations in the first and third sentences of Paragraph 59, which shall have the effect of a denial. The second sentence of Paragraph 59 consists of legal conclusions and argument to which no response is required, but to the extent a response is required, the Alliance denies the same.

STATEMENT OF FACTS RELATING TO RAINIER ARMS, LLC

60. The Alliance incorporates its responses as set forth above.

1 61. The Alliance lacks sufficient knowledge or information to form a belief about the
2 truth of the allegations in Paragraph 61, which shall have the effect of a denial.

3 62. The Alliance lacks sufficient knowledge or information to form a belief about the
4 truth of the allegations in Paragraph 62, which shall have the effect of a denial.

5 63. The Alliance lacks sufficient knowledge or information to form a belief about the
6 truth of the allegations in Paragraph 63, which shall have the effect of a denial.

7 64. Paragraph 64 contains characterizations of this action and legal conclusions and
8 argument to which no response is required. To the extent a response is required, the Alliance
9 denies the same. The Alliance lacks sufficient knowledge or information to form a belief about
10 the truth of the remaining allegations in Paragraph 64, which shall have the effect of a denial.

11 **STATEMENT OF FACTS RELATING TO PLAINTIFF DANIEL MARTIN**

12 65. The Alliance incorporates its responses as set forth above.

13 66. The Alliance lacks sufficient knowledge or information to form a belief about the
14 truth of the allegations in Paragraph 66, which shall have the effect of a denial.

15 67. The Alliance lacks sufficient knowledge or information to form a belief about the
16 truth of the allegations in Paragraph 67, which shall have the effect of a denial.

17 68. The Alliance lacks sufficient knowledge or information to form a belief about the
18 truth of the allegations in Paragraph 68, which shall have the effect of a denial.

19 69. The Alliance lacks sufficient knowledge or information to form a belief about the
20 truth of the allegations in Paragraph 69, which shall have the effect of a denial.

21 70. The Alliance lacks sufficient knowledge or information to form a belief about the
22 truth of the allegations in Paragraph 70, which shall have the effect of a denial.

OMNIBUS DENIAL

Unless otherwise specifically admitted above, the Alliance denies each and every remaining allegation in the Amended Complaint.

DEFENSES AND AFFIRMATIVE DEFENSES

The Alliance asserts the following defenses:

1. Plaintiffs fail to state a claim upon which relief can be granted.

The Alliance incorporates by reference and adopts as its own any defense asserted by any other Defendant, and reserves the right to amend this Answer to assert additional defenses and affirmative defenses as additional facts are obtained through investigation and discovery.

ALLIANCE'S PRAYER FOR RELIEF

WHEREFORE, having fully answered the Amended Complaint and having asserted defenses and affirmative defenses, the Alliance respectfully requests the following relief:

1. That the Amended Complaint be dismissed with prejudice and that no relief be granted to Plaintiffs;
2. That the Court enter final judgment in the Alliance's favor;
3. That the Court award the Alliance its reasonable expenses, costs, and attorney fees incurred in defending this action as authorized by law or equity; and
4. All other relief as the Court deems just and equitable.

DATED this 14th day of July, 2022.

PACIFICA LAW GROUP LLP

s/ Kai A. Smith

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Attorneys for Intervenor-Defendant
Alliance for Gun Responsibility